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Delta Ambulance Service, Inc. and Local 531, International Brotherhood of Teamsters, AFL-CIO.
Case 2-CA-27172

June 18, 1996

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND COHEN

On June 23, 1995, the National Labor Relations Board issued an unpublished Order adopting, in the absence of exceptions, the decision of the administrative law judge directing the Respondent, Delta Ambulance Service, Inc., to pay limited backpay to the unit employees pursuant to *Transmarine Navigation Corp.*, 170 NLRB 389 (1968), to pay all delinquent contributions to the Union's Sick & Welfare Fund, and to reimburse the unit employees for any expenses resulting from its failure to make such contributions. On August 30, 1995, the United States Court of Appeals for the Second Circuit entered a judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay and reimbursement due the unit employees and contributions owed the fund, on January 18, 1996, the Regional Director for Region 2 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated March 22, 1996, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by April 3, 1996, summary judgment would be sought. The Respondent filed no answer.

On May 20, 1996, the General Counsel filed a Motion for Summary Judgment with the Board. On May 22, 1996, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due the unit employees and the fund are as stated in the compliance specification and we will order payment by the Respondent of said amounts, plus interest accrued on said amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Delta Ambulance Service, Inc., New York, New York, its officers, agents, successors, and assigns, shall make whole the following individuals and fund by paying them the amounts set forth below, with interest on the backpay owed as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and any additional amounts accruing on the fund contributions as prescribed in *Merryweather Optical Co.*, 240 NLRB 1213 (1979), minus tax withholdings on the backpay due the individuals required by Federal and state laws:

Angel Crespo	\$480
Willie Bond	\$688
Midgal Cepeda	\$688
Scott Corelli	\$688
Stephen Correjer	\$688
Rodney Dawson	\$688
Cecil A. Fahie	\$688
William Ford	\$688
Juan Gonzalez	\$688
Miguel Green	\$688
Andy Hernandez	\$600
James Irizarry	\$688
Bruce Johnson	\$688
Debra Katz	\$688
Ronnie Lomax	\$688

Edward Lopez	\$688
Pat Luciano	\$688
Felix Marquez	\$688
Eddie Mayo	\$688
Israel Miranda	\$688
Dennis Mojica	\$660
Raul Rivera	\$688
Neil Singn	\$688
Patrik Smith	\$688
Jorge Vargas	\$688
Maria Vargas	\$688
Stepon C. Walter	\$688
Louis A. Lopez	
(Ramos)	\$688
Desmond Smalls	\$580
Jose Castro	\$580
Jason Aleman	\$680
Aries Almendral	\$688
Alexan Altcheck	\$688

Sick & Welfare Fund Local 531:	\$15,075
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TOTAL Backpay & Contributions:	\$37,231
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Dated, Washington, D.C. June 18, 1996

William B. Gould IV,	Chairman
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Margaret A. Browning,	Member
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Charles I. Cohen,	Member
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